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Thomas G. Gatzunis, P.E.
Commissioner

Thomas P. Hopkins
Director

Board Meeting Minutes – December 1, 2014

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Diane McLeod, Vice Chair (DM)
- Myra Berloff, Massachusetts Office on Disability Director (MB)
- Andrew Bedar, Member (AB)
- George Delegas, Member (GD)
- Lisa Pilorz, Member (LP)
- Carol Steinberg, Member (CS)

and

- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)
- Thomas Hopkins, Executive Director (TH)

Members Not Present:

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

- Meeting began at approximately 9:10 a.m.

1) Discussion: Roll Call

WW - Call to order all but Raymond Glazier present

2) Discussion: Glass Factory Condos, 169 Monsignor O'Brien, Cambridge (C13-091)

TH - EXHIBIT – November 25, 2014 Matthew Gaines letter seeking more time to submit plans for compliance

- seek until December 10, 2014

CS - grant as proposed to December 10, 2014
GD - second – carries unanimously

Raymond Glazier, Executive Office of Elder Affairs Designee – Now Present (RG)

3) Advisory Opinion: Larry Braman, Cambridge Inspectional Services, 521 CMR 9.2.1, 10.1

TH - EXHIBIT – e-mail from Larry Braman on November 18, 2014
- seeking advisory regarding small number of units in one building
- spending over 30% have to provide the units, but if not spending over 30%, it says that common area compliance still is required (3.3.1b)
- but 9.2.2 says that 30% requires that public and common use spaces are subject to all of 3.3, but 10.1, says has to be 12 or more units

CS - *Braman interpretation is correct, per 10.1 (public and common use spaces), except for the requirement for work performed in units less than 12, and that this would not apply to new construction of 3 or more units, where public and common use spaces would be required to comply; any change to this requirement would require a change in the statute MGL Ch. 22 Sec. 13A*

GD - second – carries unanimously

4) Incoming: Life Science Laboratory, Building 694, 240 Thatcher Way, Amherst (V14-310)

TH - EXHIBIT – variance application and supplemental information
- project is at construction documents phase, per question 16 on application
- calorie meter machine being constructed, which is a room with a bed, bathroom and table
- measures air samples within the room
- the room is proposed to not be accessible

MB - deny

AB - second – carries unanimously

5) Incoming Discussion: Newton City Hall, War Memorial Hall, 1000 Commonwealth Ave., Newton (V14-235)

TH - September 22, 2014 presented the original variance application
- adding second elevator and seeking 12 month time variance for noncompliant ramp and route to the hall
- granted 5 requests as proposed
- Notice of Action received by the applicant and signed service notice submitted with original application, notarized affidavit that all of the applications were delivered to the required parties, Building Department, Commission on Disability, and Independent Living Center
- EXHIBIT – November 25, 2014 letter from Newton Commission on Disability stating that they never received the variance application

MB - *vacate the previous order and notice of our action and the reason for vacating the previous order, base on the lack of notice sent to the commission on disability and receipt of notice of that*

AB - second – carries unanimously

6) Incoming: Physical Therapy, 32 County Road, Mattapoisett (V14-315)

- TH - EXHIBIT – variance application and supplemental information
- seeking to use single user toilet room
- but after review of application, allowed by right per 521 CMR 30.1.1
- needs a variance from the plumbing Board
- has also asked if we can write a letter of support to the plumbing board

CS - *no variance is required under 521 CMR, and to also support a variance before the Plumbing Board*
DM - *second – carries unanimously*

7) Incoming: Manton Research Center, 225 South Street, Williamstown (V14-320)

- TH - EXHIBIT – variance application and all supplemental information
- in a 3 year period, spent over 30%
- multiple variance requests

CS - *hearing*
AB - *second – carries unanimously*

8) Incoming: Manton Research Center, 225 South Street, Williamstown (V14-320) – cont'd

CS - *rescind previous motion for hearing*
AB - *second – carries unanimously*

CS - *motion to have staff send out the packet to review prior to next meeting to review again*
DM - *second – carries unanimously*

9) Incoming Discussion: Wellesley College Field House, Wellesley College, 106 Central Street, Wellesley (V14-140)

- TH - first presented this supplemental submittal to the Board on 11/17/14, and voted to have the package sent to the Board to be reviewed today
- first variance submittal sought relief to section 5 for the definition of separate building; and then ordered to submit review of 30% rule
- after review, denied opinion and verified that these are to be considered one building, based on the fact that they rely on services in the adjacent building
- EXHIBIT – November 14, 2014 submittal 30% review of 521 CMR from Amy Prange

CS - need either a site visit or a hearing, need to know more

AB - estimates are there

CS - *motion for site visit and hearing*
AB - *Second – varies with GD opposed and LP abstaining*

- TH - Board site visit or staff site visit
- staff visit

CS left the room

10) Discussion: Pentucket Regional High School, 24 Main St., West Newbury (V12-239)

TH - EXHIBIT – November 20, 2014 submittal from Matthew Tobin, Esq.

- scheduled a fine hearing, for lack of compliance with an order of the Board to provide access to the press box by September 1, 2014

- EXHIBIT – September 15, 2014 and October 15, 2014 e-mail from EOPSS had been contacted by the State Representative Lenny Mirra for the area in October; looking for a letter from the Board to authorize the use of the press box

- fine hearing scheduled for failure to meet the order and failure to submit status reports

- letter submitted by Tobin included engineering study that stated that the existing press box is not structurally sound enough to attach a vertical wheelchair lift to

- letter also included picture showing the press box being lifted off of the bleachers and placed on the ground

- seeking to cancel the fine hearing and issue a statement that nothing in violation since the press box is on the ground

CS now present

MB - due to conflicting information, will hold the hearing as scheduled, and petitioners can present their case at the scheduled hearing

DM - second – carries with CS abstaining

11) Discussion: Lincoln Congregational Church, 180 Oak Street, Brockton (V14-216)

TH - EXHIBIT – e-mail from Reverend Crayton on November 24, 2014, included affidavit

AB - accept the affidavit as submitted

CS - second – carries unanimously

CS - include with the decision of the Board

DM - second – carries unanimously

12) Incoming: New 3-Story Residential Building, 23 Mercer Street, South Boston (V14-311)

TH - EXHIBIT – variance application and supplemental information

- proposed lift only serves one of the units within the new building, and 6 units

MB - deny the variance for 28.1, since it only goes to one unit and does not access the common areas

DM - second – carries unanimously

MB - grant the variance for the lack of an accessible entrance at the front of the building

DM - second – carries unanimously

JD - grant as proposed

AB - second – carries unanimously

13) Incoming Discussion: McGauvran Hall, UMass Lowell, 71 Wilder Street, Lowell (V14-243)

TH - at the last discussion (11/17/14), had voted to grant, on the condition that entrance at the other end of the building provided
- they responded by stating that this other entrance from Wilder Street is a locked door that is not used by an entrance
- granted the variance so that all entrances are locked, except the accessible entrances which would be the only public entrances

MB left the room

- motion was to lock all of the doors except the accessible entrance, they want to keep the existing main entrance with the steps
- lift is not feasible due to the length of travel, only a LULA is feasible
- \$300,000 for a LULA in that location with the stair entrance
- spending \$25 million, valued at \$13 million

MB now present

CS - *require a lift study, including length of travel and cost of the lift installation to be submitted by the next meeting of the Board*

AB - *second – carries with MB abstaining*

14) Incoming Discussion: Pioneer Valley Performing Arts Charter Public School, 15 Mulligan Dr., South Hadley (V14-240)

TH - EXHIBIT – November 18, 2014, Ilan Tierney submitted hearing request form
- they are 19 days beyond hearing request period
- this is a variance for the route outside of the venue to the stage from a hallway
- seeking to waive 30 day period and hold a hearing

MB - *grant a hearing*

CS - *second – carries unanimously*

15) Incoming: Maugus Club, 40 Abbott Road, Wellesley Hills (V14-307)

TH - EXHIBIT – variance application and supplemental information
- 3-story building used for exercise and daycare
- remodeling of showers and toilet rooms
- spending less than 30% and under \$100,000, so jurisdiction is 3.3.1a
- providing unisex accessible toilet room
- toilet and urinal stalls currently do not comply
- renovations will bring urinal into compliance, and alternate accessible stall provided within bathroom

DM - *deny*

MB - *second – carries unanimously*

16) Incoming: 274 Franklin Street, Worcester (V14-314)

TH - EXHIBIT –variance application and supplemental information, plans and photos
- jurisdiction is change of use and work performed
- 90 year old building with existing elevator shaft
- cube provided at the first floor will be provided as the accessible first floor cubical area
- office use, but not specified

MB - *deny, need to do study on the reuse of the shaft for insertion of vertical access*
DM - *second – carries unanimously*

17) Incoming: Spalenza, 185/187 Lake Street, Peabody (V14-318)

TH - EXHIBIT –variance application and supplemental information
- former private residence, converted to day spa
- first floor is accessible and proposal for separate business on the second floor
- seeking variance for lack of vertical access to the second floor

DM - *deny*
MB - *second – carries unanimously*

18) Incoming: Condos at 103-109 South St., Boston (V14-313)

TH - EXHIBIT - variance application and supplemental information
- existing building, seeking variance for lack of pull side clearance at entrance door, proposing 16 ¼”

MB - *grant as proposed*
DM - *second – carries unanimously*

19) Hearing: The Crystal Room, 49 Cedar Street, Milford (C14-024)

WW - called to order at 11:00 a.m.
- introduce the members of the Board

Tim Briggs, Complainant (TB)

Mark Dempsey, Compliance Officer for the Board (MD)

Keith Usher, Owner of The Crystal Room (KU)

WW - all sworn in
- EXHIBIT 1 – AAB packet, AAB1-51

TH - hearing was requested by the property owner, not the complainant

MD - response received from first notice was a request for more time, then more time issued for submittal of response by August 1, 2014; the response from that order was a request for a hearing

KU - do not contest the complaint; just need more time and information
- there are events either at the upper level or the upper level, but never events that are coinciding with each other that would require people to go between floors
- just would like some more time for financial and planning reasons

WW - sounds like they need a variance

- typically at a complaint hearing, need to hear from the complainant and then make a motion regarding complaint

TB - was hired as a consultant to help them get their wedding venue beginning
- during the process found out that a lot of violations of access were happening
- brought that notice to the owners and was “met with opposition”
- room downstairs holds up to 80 guests and room upstairs holds up to 260
- room at the lower level was for 30-80 guest, and the room upstairs is for guests of 75 or more
- on the website, notes that the lower level is used as the bridal suite and picture room when a function is held at the second floor
- complaint made based on those grounds

MD - going through the permits and assessed value, there were 3 permits issued in 2011 and 1 in 2013, valued at a combined \$221,200; value in 2011 was \$190,000 and value in 2013 was \$219,300
- issue at hand is lack of access to the front entrance, lack of vertical access between the two floors and lack of illuminated exit signs

TB - they also did not meet with the local commission on disability per the requirements of the Town Meeting minutes

DM - *find in favor of the complaint*
MB - *second – carries unanimously*

KU - have retained a firm to look into the lack of access at the front entrance, and the lack of vertical access between the floors
- hired 3 cubed architecture and design, and have signed contract
- now just need time to get the project designed and move forward with the compliance resolution

WW - EXHIBIT 2 – copy of contract with architecture firm, final page is an authorization for design

KU - will provide the illuminated egress signage as soon as possible, we are already working on getting the signage

CS - plan is to comply, and no variances requested?
- if just going to comply, do not need variances

GD - how long will the design take?
KU - will most likely be done in 60 days and hoping to start the work in the spring of 2015

WW - financing in place?
KU - as of right now, does not appear to be an issue, as long as it falls within the estimates

GD - any issues with entrances?
KU - vertical access would solve this issue

TB - functions will utilize both levels at the same time, per their website

MB - need some timelines
- if work does not begin until March 1, 2015; June 1, 2015 is not a realistic date for it to be installed and inspected by
- should see the designs within 30 days, 60 days is too long for that submittal

- if once contracts are signed and work is moving forward, then understand request for more information

MB - should submit by the Tuesday before the last meeting in January 2015

WW - want to see design and the stamp on the plans

TB - part of the complaint was also regarding lack of accessible parking spaces

MD - complaint form was only a building a complaint form and parking spaces were not cited

TB - would like to know if the accessible toilet rooms comply as well

WW - should have architect submit full review of the building

DM - design for the vertical access and entrances (stamped plans, ready to bid), verification that compliant emergency egress signage has been installed, and full review of building for compliance with 521 CMR, submitted to the Board for February 17, 2015, to be reviewed by the Board at the February 23, 2015 meeting

CS - second – carries unanimously

MB - also include a timeline for construction and anticipated completion date included with the design submittal

DM - second – carries unanimously

WW - AAB23 note regarding ramp for the park stored at the Milford Police Department, was hoping that someone from the Town was at the hearing

DM - contact the Building Department in Milford regarding this project and Draper Park, noted in the meeting minutes

MB - second – carries unanimously

20) Incoming: Via Lago Restaurant, 1845 Mass. Ave., Lexington (V14-319)

TH - EXHIBIT – variance application and supplemental information

- trigger is work performed and expansion into the adjacent tenant space

- seeking a variance for the new entrance into the adjacent expansion space

MB - continue for more information

DM - second – carries unanimously

21) Incoming: St. James Church, 1991 Mass. Ave., Cambridge (V14-317)

TH - EXHIBIT – variance application and supplemental information

- using rental trailer as church offices during construction project

- demolishing current parish house and building a new one

- two-year project, cost of rental trailer with stairs and inaccessible toilet room (\$28,575 for two years), trailer that fully complies is \$44,965 for two year period

- want to provide the inaccessible trailer instead of the more expensive accessible trailer

WW - is there an accessible toilet room in the church; could people meet there

DM - grant, on the condition that the church is open and has an accessible toilet room and meeting space

TH - compliant toilet room within the church, but also providing accessible portable toilets outside the church at the base of the ramp

MB - accessible portable toilet for everyone?

TH - yes, because the bathrooms in the parish house are going away

RG - think that the cost is trivial, versus the benefit

DM - withdraw

RG - deny

MB - second - 3 in favor (MB, AB, and RG), 4 opposed (LP, DM, GD, and CS)

CS - continue for more information regarding alternative accessible meeting space and policies about meeting, submitted by December 9, 2014

DM - second – carries unanimously

22) Incoming: Bouve Conservation Land, 0 Wompatuck Road, Hingham (V14-307)

TH - EXHIBIT – variance application and supplemental information
- constructing stair case to allow pedestrian access from an adjacent existing trail along the waterfront to conservation land trails
- 4 feet of difference between the two paths of travel
- looks like a portion has been built already

MB - deny

DM - second – carries unanimously

LUNCH BREAK

23) Hearing: Commonwealth Avenue Apartments, 1285, 1287, 1289, 1291, 1293, 1295, 1299, 1301, 1305 and 1309 Commonwealth Avenue, Boston (V14-159); Glenville Avenue Apartments, 58, 62, 66, 70, 74, 82 and 90 Glenville Avenue, Boston (V14-160)

WW - called to order at 1:00 p.m.

- introduce the Board

Paul Warkentin, Davis Square Architects (PW)

WW - PW sworn in

- EXHIBIT 1 – AAB1-53

- EXHIBIT 1 (Glenville) – AAB1-22)

PW - 17 buildings, 10 on Comm Ave side, and 7 on Glenville side

- typically 4-5 units per floor

- in 1998 the building was substantially renovated and accessible units provided; and several variances granted

- project is a new storm water system, new sprinklers and fire alarms, new plumbing stacks, new masonry stacks, select renovations of kitchens and baths, and replace vertical wheelchair lift, new management offices with accessible toilet rooms, which is accessed by the lift; and new wall side stair handrails

- propose to do the work with people in the units (100% occupied); 235 residential units in total

- seeking variance for distribution and number of accessible units

- in 1998 constructed 6 accessible units, the units are concentrated in 1285, 1287, and 1289 Comm. Ave., accessible units are at the first floors of those buildings; at Glenville, similar situation, except that there is a ramp to the first floor

- AAB13 is the unit breakdown

RG - are they all one-bedroom units?

PW - yes

MB - are they market rate?

PW - they are all affordable units

- is this the entire portfolio for this building ownership?

PW - no, but do not have that information; but believe that there are accessible units within each of their developments

- distributions assume that people with disabilities need only a one bedroom unit

Carol Martinez, Arlington Brighton Community Development Corporation now present (CM)

WW - CM sworn in

MB - are the other units within the portfolio in this same area

PW - in Commonwealth, only one-bedrooms provided based on the structure and layout of the building

- cannot borrow space from the adjacent unit for more space in the accessible units

CM - entire portfolio is in Allston and Brighton

- half of the portfolio is new construction, where there are larger accessible units (2 and 3 bedroom units)
- try to make the larger units accessible when we can
- try to build bigger in the new construction to provide the accessible units with more bedrooms

DM - all units in both buildings are occupied?
 PW - yes

CS - concerned with 1 bedroom units only
 - do see that Glenville provides 2-bedroom units
 - is there a waiting list for multiple bedroom units?

CM - the turnover is not often and unsure of exact numbers
 - can also find out if the accessible apartments are occupied by people with disabilities

CS - would want to know about the rest of the housing stock available in the area

RG - continue for more information on both cases, regarding the housing stock and the number of 1, 2 and 3 bedroom units in the stock and what is accessible within the housing stock throughout the portfolio

MB - second – carries unanimously

CS - submit by December 9, 2014

PW - rear building entrances
 - accessible entrances are at the front of the buildings for the building with the accessible units
 - the rear entrances go into the basement level, and there is no interior vertical access

CS - how have the lifts held out that are located at Commonwealth Avenue

PW - they are reaching the end of their life span, and want to replace when they have the money

RG - concerned about fire egress
 - is there an area of refuge provided at the rear?

PW - because of the existing configuration, can get out of the building at the rear deck, but not out onto the street
 - at Glenville, there is a rear stair
 - the buildings will now be sprinklered

DM - grant the variance for the entrances, as proposed, for the Comm. Ave. apartments

CS - second – carries unanimously

DM - grant the variance for the lack of compliant accessible entrances, as proposed for Glenville apartments

CS - second – carries unanimously

- PW - stair handrails
- can provide a compliant wall-mounted handrail for existing interior stairs, but are concerned about the narrowing of the stairs
- argument is based on technological infeasibility, in that the stairs are at some points reduced to 2'8"

GD - grant the variance for the commonwealth ave stairs lack of compliant handrails

DM - second – carries unanimously

GD - grant on the condition that compliant wall-mounted handrails are installed

DM - second – carries unanimously

- PW - the door is currently swinging into the unit and would like to swing the door out to not hinder the turning radius within the bathroom; technologically infeasible to comply in full

- MB - what about full swing hinges to clear the corridor completely

DM - grant as proposed, on the condition that full swing (180 degree) off-set hinges are installed at the doors in question within the Comm Ave apartments

MB - second – carries unanimously

- PW - AAB22, head height clearances, only 63 ½ inches provided
- also accessible unit with pinch-point corridor only providing 2'8" of clear width at one point in the unit entry corridor
- infeasibility issue due to existing structural items
- 2'8" clear in the corridor is for approximately 30"

- MB - a side approach at that door and then a narrow corridor

- WW - what are the walls made out of?

PW - masonry walls and some framed (between the two units)

- any way to get more space within the corridor

MB - continue for more information to submit more details about more space within the Unit 2 Entry in 1289 Commonwealth avenue

CS - second – carries unanimously

- PW - turning radius within accessible bathroom in 1285 Comm Ave accessible Unit 2, goes under the sink

MB - grant as proposed

CS - second – carries unanimously

- PW - door swing, bathroom door swing, AAB 19

DM - grant the variance for lack of compliant clear turning radius for Unit 3 and Unit 2 within 58 Glenville

MB - second – carries unanimously

PW - AAB 20-22, turning radius in kitchen goes under counter 4”

CS - grant the variance requested for the lack of full turning radius for 58 Glenville Unit 4

DM - second- carries unanimously

PW - Glenville Units 2 and 3 in 58 Glenville and Unit 2 in 62 Glenville, noncompliant clear turning radiuses in the kitchens and bath

- current design works for the current residents

- in order to make it work better, would make the living room much smaller and almost unusable

- looking at it as technological infeasibility, due to loss of space and usability within the unit

- similar issue at 62 Glenville Unit 1, lack of compliant turning radius

CS - grant the lack of turning radius 58 Glenville Unit 2 and 3 and 62 Glenville Unit 2, and Unit 1 in 62 Glenville as well (45.3)

GD - second – carries with MB opposed

DM - have all information submitted by December 9, 2014

GD - second – carries unanimously

DM - motion to expedite

GD - second – carries unanimously

24) Hearing: Dr. Po Po Chui D.M.D LLC, 1051 Beacon Street, Brookline (V14-254)

WW - called to order at 2:00 p.m.

- introduce the Board

Julie Cummings, Phase Zero Design Architects (JC)

WW - JC sworn in

- EXHIBIT 1 – AAB1-13

JC - initial submission was based on space requirements

- got some more financial information and plans that were provided to contractor

- submittal of plan Phase Zero Design, Ramp demolition plan and ramp construction

WW - accept the submitted plan as EXHIBIT 2

JC - submittal from Unique Sales and Services, work proposal

WW - accept submitted proposal as EXHIBIT 3

JC - did not initially provide pricing for the cost to provide a compliant ramp
- tenant owns the condo within the building
- renovating existing dental office
- current stair location will not allow the installation of a ramp without having to remove and relocate the stairs and then create a new ramp
- the cost of that work is \$74,000
- there are also concerns with underground utilities, and relocation of those utilities is not included within that cost
- primary entrance to the building is at this location, which would be blocked if the construction was required
- there is not an accessible route available at the rear of the building either
- argument for lack of access is excessive cost
- the building is not accessible currently

WW - stairway is 8 feet wide, why not split the stair and add a ramp?

JC - concern was with life safety egress

GD - what about the installation of an incline lift or a vertical wheelchair lift?

JC - concern with utilities in the area, and the need for approval for the ramp from the condo association

TH - work done by the tenant triggered requirements for the common use spaces for the building owner(s)

GD - don't need 5 foot level landing and could ramp straight up to the door if automatic door opener installed

CS - deny and require plan showing an accessible entrance, and any additional variances submitted by December 30, 2014

DM - second – carries unanimously

DM - expedite

MB - second – carries unanimously

25) Incoming Discussion: St. Ann's Home, 98-100 Haverhill St., Methuen (V14-269)

TH - change of use occurring, since residents at the second floor
- continued on 10/20/14 for more information
- building value is \$148,700, spending \$100,000, so over 30%
- primary variance is for the lack of vertical access to the second floor and the lack of access at 2 of the 3 entries, and toilet rooms at the second floor
- first floor will be fully accessible (bathroom, shower, double dorm room)

- second floor is more dorm rooms and bathrooms
- EXHIBIT – pictures submitted by Dennis Grandbois, Executive Director of the Program on 12/1/14
- social areas are all at the first floor

CS - grant on the condition that all programs offered at the first floor
Dm - second – carries unanimously

CS - grant the variance for the lack of access at 2 of the 3 entrances
DM - second – carries unanimously

DM - grant the variance for lack of access at the second floor toilet rooms
GD - second – carries unanimously

BRIEF BREAK

WW and GD not present, DM as Acting Chair

26) Incoming: The New Dance Complex, 536 Mass. Ave., Cambridge (V14-316 & V95-017)

- TH - EXHIBIT – variance application and supplemental information
- former odd fellows hall
 - 4 upper floors are used as dance studios
 - converting one of the retail spaces at the first floor into dance studio
 - previous owners got variance in 1995 for the lack of level landing at the entrance, on the condition that an automatic door opener is installed, and the use of the installation of an incline wheelchair lift
 - need more information for clarification on jurisdiction

MB - more information and/or meeting with Board staff
AB - second – carries unanimously

GD and WW now present

AB left the room

27) Incoming: YMCA, 445 Central Street, Stoughton (V14-312)

- TH - EXHIBIT – variance application and supplemental information
- developing construction docs
 - spending over 30%
 - 5 variances relative to toilet rooms, locker rooms, etc.
 - could send the documentation and vote at next meeting

CS - continue to have staff mail the variance packet and then render decision at next meeting
MB - second – carries unanimously

AB now present

28) Discussion: Cahoon Museum of American Art, 4676 Falmouth Road, Cotuit (V14-105)

TH - EXHIBIT – November 19, 2014 submittal from Steven Cook of Cotuit Design for doors 2, 3, 10, 12, 5, 11, 14

- Door 2, proposing to remove the existing piece of bead molding, increasing the width of the door to 29 3/8”

- removing the bead molding at all the doors as a method of creating more width at the existing doors

DM - continue and have TH contact the Petitioners and have them submitted modified doorway plans, to have a minimum of 31” clear

MB - second – carries unanimously

DM left for the day

29) Incoming: Visual Arts Center, 24 Amelia Drive, Nantucket (V14-321)

TH - EXHIBIT – variance application and supplemental information

- renovation of existing building, spending over 30%

- first variance for LULA rather than an elevator; do not meet by right allowance in 28.12.1 exceptions due to number of floors within the building

- providing cab size of 43 1/4” by 60”, interior elevator accordion gate is automatic, exterior doors comply with 521 CMR 26

CS - grant the use of a LULA as proposed

AB - second – carries unanimously

TH - LULA has automatic accordion but door at the hallway requires manual opening

MB - deny the request for the lack of automatic door openers at exterior of the LULA

GD - second – carries unanimously

TH - one accessible sink proposed per level, with all other sinks to be designated as employee-only use

MB - deny the variance requested for the lack of accessible sinks

AB - second – carries unanimously

TH - section 22, administrative conference room entrance

- two primary accessible entrances

- only one entrance of the other provided that will not be accessible

- providing an area of refuge at this entrance deck

MB - more information submitted regarding the usage of the porch and use of the space adjacent to the newly constructed porch

RG - second – carries unanimously

30) Hearing: St. Luke's Episcopal Church, 201 Washington Avenue, Chelsea (V14-127)

WW - called to order at approximately 3:00 p.m.

- introduce the Board

Chris Howe, CDHA Consultants (CH)

Brian Laroche, Potomac Capital (Owner's Representative) (BL)

Reverend Edgar Gutierrez, St. Luke's Episcopal Church (EG)

WW - all parties sworn in

- EXHIBIT 1 – AAB1-61

CH - submittal of letter dated November 28, 2014, from Rev. Gutierrez, with pictures and plans

WW - accept as EXHIBIT 2

EG - 150 members

- established in 1864 and has been at present location since 1907

- since 1985 all churches were required to have total and equal access to all worship and functions of the church

- also have a food pantry and thrift shop

- problems with the lack of access to the food pantry, which they have already created

CH - an accessible entrance now provided to the Nave (worship portion of the church), there is also an accessible entrance to the parish hall

- there is also a new accessible entrance to the second floor of the building, creating access to the offices and the religious education classrooms of the church

- there is an interior lift which creates access to the parish hall stage and to the basement level thrift shop

- current project is the first time that accessibility has been brought to this building since its original construction

- there are accessible restrooms being created at the second floor and basement, and renovations to make the first floor bathrooms accessible

EG - access to the sanctuary has been completed

- have already seen the benefits of creating access into the church

- also have a number of elderly members that are grateful for these access improvements

CH - cost of construction is \$916,000, basically equal to the value of the building

- first variance is for entry doors, which are original ornate wooden doors

- seeking variances from section 26.8 (door opening force) and 26.11 (door hardware)

- 3
- letter from EG is a letter of policy, very similar to AAB 35-37, but updated policy is Exhibit 2 pages 1-3
 - these doors are latched in the open position during services, and when closed, access is provided via the parish hall nave entrance
 - full compliance would require automatic door openers at a cost of \$10,000
 - general public does not operate these doors

GD - is there access when no services are being held thru the parish hall?

EG - yes, and parish hall has direct access to the sanctuary
- locked when not in use

BL - doors do stay open in the winter months, since interior vestibule doors into the sanctuary

EG - the doorway in question is only used during services

CS - *grant the variance for the lack of compliant door opening force (26.8) and compliant hardware (26.11), for the exterior historic sanctuary entrance doors, on the condition that the doors are kept open during regular mass services as proposed*

MB - *second – carries unanimously*

CH - choir loft is only to be used as overflow seats, seating for 30 people
- choir now sings from the floor

MB - *grant the variance for the lack of access at the choir loft, on the condition that there is a policy in place that the choir loft is only used as overflow seating*

CS - *second – carries unanimously*

CH - page 5 of EXHIBIT 2

- central portion of the chancel is raised 18” above the first floor level of the church
- also another 6” step up to the altar, so the altar is 24” above the level of the first floor
- choir seating is also 24” above the first floor of the seat
- there is a lectern located the main level of the church
- AAB27 is a sketch of the work that would be required to make the altar and chancel accessible
- would have to altar the chancel and the pew area and the music area in order to create a 36” wide route to the chancel
- total cost of compliance would be \$45,000
- seeking variance for the lack of access to the chancel (20.1 and 28.1)
- proposing to alter the seating in the choir area, which will provide one wheelchair seating location with the use of a portable ramp to the choir area
- portable ramp will have edge protection but no handrails, and can be put out upon request
- lectern location does get used regularly

AB - same pictures on AAB28?

CH - no, the pictures on pages 6 & 7 of Exhibit 2 are the actual portable ramps proposed, a 12’ ramp and a 4’ ramp

- BL - can fill in 18" and create an area that is all one level
 - on the right side, can put the ramp and leave it in place during services; two ramps would still be required, one up to the altar and then up to the choir level/chancel
 - the altar is cast in place concrete
- CH - ramp would be used with assistance, and would have a steeper slope
 - corridor behind organ chamber and to sacristy is only 15 feet and the sacristy is 24 inches above the nave hall
 - ramps would be stored in this corridor
- MB - grant the lack of an accessible route to the altar, chancel and choir area, on the condition that, as proposed, two portable ramps are provided (one 12" and one 4"), the 18" discussed is added to the choir area to create one level area, and that the Petitioners submit more information regarding a support system for the portable ramps*
- AB - second – carries with CS abstaining*
- CH - lack of access to the sacristy, limited to assistants to the clergy and the clergy themselves
 - 24" change in level from nave floor up to the level of the sacristy, and only a 15 foot corridor
 - the organ chamber is located directly adjacent to the sacristy corridor; cannot widen the corridor
- BL - EXHIBIT 2, Page 5, 23 ¾" clear wide for door from sacristy from the chancel,
- CH - door in between sacristy and chancel is within a structural wall
 - can use the portable ramps to get to the door of the sacristy if someone wants to be an assistant to the clergy
 -\$15,000 to modify the sacristy door
- EG - can modify use of the sacristy to help accommodate those unable to access the sacristy room
- MB - grant the variances for the lack of access to the sacristy*
GD - second – carries unanimously
- CH - commercial kitchen with dry goods storage area
 - commercial kitchen equipment provided, which does not comply with 521 CMR
 - ceiling heights are too low for commercial refrigeration unit
 - policy is that if a member of the church wants to participate in food preparation, can provide an accessible work space, with additional assistance for getting items from the kitchen
- MB - doesn't look like there is enough space for the inclusion of an accessible prep area
- BL - all of the cabinets are on casters and movable
- TH - change in level is actually a variance for 29.2.3, not 28.1

- section 32 exempts commercial kitchen equipment to comply, just need to provide compliant work surface for persons with disabilities

MB - grant the variances requested for the kitchen, on the condition that compliant work surface station/table is provided upon request

CS - second – carries unanimously

WW - parking and toilet rooms

CH - parking provided is less than 15 and accessible toilet rooms are now provided at the first floor

MB - no variance is required for the lack of accessibility at the first floor toilet rooms, since they have been modified to comply in full with the applicable requirements

GD - second – carries unanimously

MB - no variance required for the lack of accessibility at the parking, since the number of parking spaces provided is less than 15, therefore making the parking not under the jurisdiction of the Board

AB - second – carries unanimously

RG left the room

31) Discussion: Wellesley College, Billings Hall Link and Schneider Center, 106 Central Street, Wellesley

KS - conflict with original decision

CS - change the decision to only have the Locations 1 and 2 to comply by July 2015

AB - second – carries unanimously

RG now present

32) Discussion: Minutes and decisions from 11/17/14

KS - any changes

CS - accept both, with the exception that note CS as opposed to 115 Mt. Auburn decision

RG - second – carries with MB abstaining

33) Incoming: Visual Arts Center, 24 Amelia Drive, Nantucket (V14-321) – cont'd

TH - item #3, request for walkway grade

- at the front entrance, there is a portion that has a slope 1:13

MB - grant as proposed

AB - second – carries

TH - maneuvering clearance for the lack of front approach at door D102, adjacent door complies
- lack of compliant pull side clearance

AB - grant as proposed

GD - second – carries unanimously

TH - public toilet rooms at first floor comply with minimum dimensions
- seeking variance for overall dimensions of unisex toilet room at basement level 6' by 7' ½"

CS - grant as proposed

GD - second – carries unanimously

TH - unisex toilet room at second floor is 5'10" by 9' 4 ¾"

MB - grant as proposed

AB - second- carries unanimously

TH - seeking a variance for the use of a swing up grab bar

MB - accept as proposed

CS - second – carries unanimously

CS left for the day

34) Discussion: West Newton Cinema, 1296 Washington Street, Newton (C13-002 & P87-219)

TH - variance granted in 1988 for the lack of access for the creation of additional theaters which required access

- the board granted a variance for the lack of access on the condition that the movies are rotated to the accessible theaters and that the accessible movies be advertised

- EXHIBIT received today (dated November 21, 2014) letter from David Bramante

- \$340,000 for interior elevator and the cost of creating accessible seating in the existing inaccessible theaters is an additional \$50,000; compiled by the building owner

- EXHIBIT – site report dated 12/2/14, site visit conducted by Mark Dempsey, Compliance Officer for the Board on November 6, 2014

- theaters are on top of each other with seating stairs up into each of the upper level theaters

- EXHIBIT – e-mail from Jerry Rubin, October 21, 2014

- questions regarding decision of the Board

MB - motion to reopen

GD - second – carries unanimously

MB - find in favor of the complainant, based on the lack of meeting the 4 conditions as set in the 1988 decision

RG - second – carries unanimously

MB - amend the previous decision to reflect the applicable sections from 1988 edition of 521 CMR, including jurisdiction, which does not change the substance of the decision

RG - second – carries unanimously

MB - the issue before the board regarding vertical access, was heard and decided in 1988 and remains effective at this time, based on the fact that no further work triggering further jurisdiction on this building has occurred

AB - second – carries unanimously

MB - the seating is not distributed, since the accessible seats are located at the back of the theater

MD - only one rear accessible seating location provided with companion space

- signage is provided at the accessible seating location and on the companion seats

KS - will type up an amended decision to be reviewed at the next meeting

- End of Meeting -

EXHIBITS:

- Glass Factory Condos, 169 Monsignor O'Brien, Cambridge (C13-091) - November 25, 2014 Matthew Gaines letter seeking more time to submit plans for compliance
- Larry Braman, Cambridge Inspectional Services, 521 CMR 9.2.1, 10.1 - e-mail from Larry Braman on November 18, 2014
- Life Science Laboratory, Building 694, 240 Thatcher Way, Amherst (V14-310) - variance application and supplemental information
- Physical Therapy, 32 County Road, Mattapoisett (V14-315) - variance application and supplemental information
- Manton Research Center, 225 South Street, Williamstown (V14-320) - variance application and all supplemental information
- New 3-Story Residential Building, 23 Mercer Street, South Boston (V14-311) - variance application and supplemental information
- Maugus Club, 40 Abbott Road, Wellesley Hills (V14-307) - variance application and supplemental information
- 274 Franklin Street, Worcester (V14-314) - variance application and supplemental information, plans and photos
- Spalenza, 185/187 Lake Street, Peabody (V14-318) - variance application and supplemental information
- Condos at 103-109 South St., Boston (V14-313) - variance application and supplemental information
- Via Lago Restaurant, 1845 Mass. Ave., Lexington (V14-319) - variance application and supplemental information

- St. James Church, 1991 Mass. Ave., Cambridge (V14-317) - variance application and supplemental information
 - Bouve Conservation Land, 0 Wompatuck Road, Hingham (V14-307) - variance application and supplemental information
 - The New Dance Complex, 536 Mass. Ave., Cambridge (V14-316 & V95-017) - variance application and supplemental information
 - YMCA, 445 Central Street, Stoughton (V14-312) - variance application and supplemental information
 - Visual Arts Center, 24 Amelia Drive, Nantucket (V14-321) - variance application and supplemental information
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- Newton City Hall, War Memorial Hall, 1000 Commonwealth Ave., Newton (V14-235) - November 25, 2014 letter from Newton Commission on Disability stating that they never received the variance application
 - Wellesley College Field House, Wellesley College, 106 Central Street, Wellesley (V14-140) - November 14, 2014 submittal 30% review of 521 CMR from Amy Prange
 - Pentucket Regional High School, 24 Main St., West Newbury (V12-239) - November 20, 2014 submittal from Matthew Tobin, Esq.; September 15, 2014 and October 15, 2014 e-mail from EOPSS had been contacted by the State Representative Lenny Mirra for the area in October
 - Lincoln Congregational Church, 180 Oak Street, Brockton (V14-216) - e-mail from Reverend Crayton on November 24, 2014, included affidavit
 - Pioneer Valley Performing Arts Charter Public School, 15 Mulligan Dr., South Hadley (V14-240) - November 18, 2014, Ilan Tierney submitted hearing request form
 - St. Ann's Home, 98-100 Haverhill St., Methuen (V14-269) - pictures submitted by Dennis Grandbois, Executive Director of the Program on 12/1/14
 - Cahoon Museum of American Art, 4676 Falmouth Road, Cotuit (V14-105) - November 19, 2014 submittal from Steven Cook of Cotuit Design for doors 2, 3, 10, 12, 5, 11, 14
 - West Newton Cinema, 1296 Washington Street, Newton (C13-002 & P87-219) - received today (dated November 21, 2014) letter from David Bramante; site report dated 12/2/14, site visit conducted by Mark Dempsey, Compliance Officer for the Board on November 6, 2014; e-mail from Jerry Rubin, October 21, 2014